

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:15-cv-140-FDW
(5:12-cr-2-FDW-DSC-1)**

THOMAS PHELPS HAMILTON,)	
)	
Petitioner,)	
)	
vs.)	ORDER
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
_____)	

THIS MATTER is before the Court on Petitioner’s Renewed Application for Certificate of Appealability, (Doc. No. 26).

Petitioner filed a § 2255 Motion to Vacate on November 13, 2015, and an Amended § 2255 Motion to Vacate on March 24, 2016. (Doc. Nos. 1, 4). The Court stayed the case pending the United States Supreme Court’s consideration of Beckles v. United States and, after that case was decided, lifted the stay and denied relief on the merits. (Doc. Nos. 13, 21). The Court also denied Petitioner’s Motion seeking discovery because he failed to demonstrate good cause. (Doc. Nos. 20, 21). The Court declined to issue a certificate of appealability. (Doc. No. 21 at 12-13). Petitioner appealed to the Fourth Circuit, but his appeal was dismissed for lack of prosecution on June 18, 2018. See (Doc. No. 27).

Meanwhile, Petitioner filed the instant motion seeking the Court’s reconsideration of the denial of a certificate of appealability on May 9, 2018. (Doc. No. 26). He reiterates his claims for § 2255 relief and argues that the Court abused its discretion by denying his motion for post-conviction discovery.


A certificate of appealability may issue only if the applicant has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2); see Rule 11(a), Rules Governing Section 2255 Cases. A petitioner must show that reasonable jurists could debate whether the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further. See Miller-El v. Cockrell, 537 U.S. 322, 338 (2003); Slack v. McDaniel, 529 U.S. 473, 483-84 (2000).

The Court declines to issue a certificate of appealability because Petitioner has not made a substantial showing of the denial of a constitutional right and reasonable jurists would find the Court's assessment of the constitutional claims debatable or wrong.

IT IS, THEREFORE, ORDERED that:

1. Petitioner's Renewed Application for Certificate of Appealability, (Doc. No. 26), is **DENIED**.

Signed: July 27, 2018


Frank D. Whitney
Chief United States District Judge

